

**MINUTES OF THE COMMON COUNCIL  
WORK SESSION  
December 28, 2010  
City Council Chambers – Rouss City Hall**

**PRESENT:** President Jeff Buettner, Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major, Mayor Elizabeth Minor, and Vice-Mayor Michael Butler (9)

**ABSENT:** None (0)

President Buettner called the meeting to order at 5:31 p.m.

**Old Business:**

**Motion** to remove O-2010-67 pertaining to taxes for business, professional and occupational licenses from the table (tabled on 12/14/10)

Vice-Mayor Butler moved to remove O-2010-67 from the table. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2010-67:** Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 28-24 THROUGH 28-38 OF THE WINCHESTER CITY CODE REGARDING LICENSE FEES AND TAX RATES FOR BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSES

Commissioner of the Revenue Ann Burkholder stated the ordinance in front of Council is an alternative to the original proposal. The change includes gradual steps for the fee increases which addresses Council's concern for the current state of the economy.

During a brief discussion, Ms. Burkholder explained that the proposed amendments to Section 28-24 and 28-25 were necessary in order to be in compliance with State Code in transitioning from flat based fee to rate based fee and in order to avoid the loss of tax revenues as a result of this transition.

Vice-President Major moved to amend the ordinance to approve the transition from flat-license fee to rate-based fee and to hold off on changing any additional licenses or fees included in the ordinance. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Councilor Willingham moved to forward the amended ordinance to the Special Meeting scheduled later in the evening. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**Motion** to remove O-2010-61 pertaining to precious metal or gem dealers from the table (tabled on 12/14/10)

Councilor Veach moved to removed O-2010-61 from the table. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

**O-2010-61:** Second Reading – AN ORDINANCE TO ADD SECTION 16-33 TO THE WINCHESTER CITY CODE PERTAINING TO SECONDHAND PRECIOUS METAL OR GEM DEALERS RECORDING OF PROPERTY AND REPORTING TO POLICE

City Manager Jim O'Connor stated the ordinance does comply with state law with the exception of four items. Among those items are requiring a photo ID as suggested by Councilor Clark and a 15 day holding period instead of a 10 day period.

Vice-President Major moved to forward O-2010-61 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**New Business:**

**O-2010-72:** First Reading - AN ORDINANCE TO AMEND AND REENACT SECTION 9-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR MULTIFAMILY DWELLING UNITS TA-10-613

Zoning Administrator Vince Diem stated this is a staff generated initiative to address the difficulties expressed by developers and persons interested in rehabilitating properties primarily in the downtown historic area. With this ordinance, a developer could present a proposal for a building in the B-1 District that would not meet the by-right, multi-family dwelling unit criteria for square footage and be approved under the Conditional Use Permit process.

After a brief discussion, Councilor Willingham moved to forward O-2010-72 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2010-73:** First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 8, 9, AND 10 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS AND USE PROVISIONS FOR HOOKAH ESTABLISHMENTS TA-10-639

Mr. Diem stated this is a privately sponsored amendment that came from a business owner wanting to open a hookah establishment on Berryville Avenue in the B-2 District. After reviewing the use provisions for the B-2 District, Mr. Diem was not able to find a correlating use for this type of business as described by the applicant. The applicant has no objections for the use being allowed through the

CUP process. The only change in the definition of a hookah was to remove the language allowing other substances. The Planning Commission recommended denial due to a number of health related concerns expressed during the public hearing.

Councilor Clark moved to amend the ordinance to remove “or other legal, non-hallucinogenic, non-psychoactive or psychotropic substances”. *The motion was seconded by Vice-President Major then failed 1/8 with President Buettner, Mayor Minor, Vice-President Major, Vice-Mayor Butler and Councilors Hill, McInturff, Veach and Willingham voting in the negative.*

Vice-President Major moved to forward O-2010-73 to Council. *The motion was seconded by Councilor Willingham then approved 5/4 with Mayor Minor, Vice-Mayor Butler, Councilor McInturff and Councilor Veach voting in the negative.*

**R-2010-72:** Resolution – Authorize the acceptance of the VITA Grant for Dispatcher Training

ECC Director Erin Elrod stated the request is to accept a \$2000.00 grant to be used for training.

Councilor Willingham moved to forward R-2010-72 to Council. *The motion was seconded then unanimously approved by voice-vote.*

**R-2010-73:** Resolution – To Change CEMS Section 7.9 Political Activity

Interim Administration Director Josh Didawick stated the revision to the personnel policy will allow employees to run for office without taking a leave of absence.

Vice-President Major moved to forward R-2010-73 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-74:** Resolution – To Close Public Comment Period for Reallocation of CDBG Funds

Mr. O'Connor stated the resolution closed out the public comment period on the substantial amendment for the reallocated CDBG funds.

Vice-President Major moved to forward R-2010-74 to Council. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-75:** Resolution – Extension of previously granted CUP regarding 715 S. Kent Street

Mr. Diem stated the applicant is seeking a second extension. The applicant has made a number of improvements to the exterior of the building but has not been

able to open due to the economy. They are confident that within the year, the establishment will be operating.

Councilor Clark moved to forward R-2010-75 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Motion:** Forward the nomination of Perry Eisenach and Tim Youmans to serve as alternate members of the Winchester-Frederick County MPO Policy Committee.

Councilor Willingham moved to forward the nominations. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Motion:** Forward the nomination of Jules Bacha to serve as a member of the Parks and Recreation Board for a three year term expiring April 30, 2014

Councilor Willingham moved to forward the nomination. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

## **EXECUTIVE SESSION**

MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(3) OF THE CODE OF VIRGINIA FOR CONSULTATION WITH LEGAL COUNSEL TO RECEIVE LEGAL ADVICE AND STATUS UPDATE ON A MATTER OF PROBABLE AND PENDING LITIGATION AND PURSUANT TO §2.2-3711(A)(3) AND (6) OF THE CODE OF VIRGINIA FOR DISCUSSION AND CONSIDERATION OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY FOR A PUBLIC PURPOSE, AND DISCUSSION OR CONSIDERATION OF THE INVESTMENT OF PUBLIC FUNDS RELATED TO REDEVELOPMENT AND REHABILITATION OF DILAPIDATED PROPERTY WITHIN THE CITY OF WINCHESTER WHERE COMPETITION OR BARGAINING IS INVOLVED, WHERE, IF MADE PUBLIC INITIALLY, WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE PUBLIC BODY AND WHERE THE FINANCIAL INTEREST OF THE GOVERNMENTAL UNIT WOULD BE ADVERSELY AFFECTED.

Vice-President Major moved to convene into executive session at 6:27 p.m. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Mayor Minor moved to reconvene in open session at 7:34 p.m. *The motion was seconded by Councilor Veatch then unanimously approved by voice-vote.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those

public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

*A roll call vote was taken, the ayes and nays being recorded as shown below:*

MEMBER	VOTE
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

***Vice-Mayor Butler and Councilor Willingham only certified the portions they were present for.***

## **Adjournment**

With no further business, President Buettner adjourned the meeting at 7:35 p.m.